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#### REMARKS

The examiner has now rejected claims 1 and 9 under 35 U.S.C. 102 based on U.S. Patent 4,951,664 to Niemerycr. It is believed that these claims as presented are allowable because they require that the permeable facemask be adapted to provide an air path through the gasket. The endless strip of foam-like material of Niemeryer is covered by another material being elastic and impermeable to air. This impermeable material prevents the gasket from providing an air path. The air path through the filtering gasket is the improvement of the present invention thereby allowing air through to be filtered instead of having a sealing gasket to prevent such an air path.

The remaining claims have been rejected under 35 U.S.C. 103 in light of various combinations of references using Niemeryer as the basic reference. Since all of the remaining claims are dependant on either claim 1 or 9 it is believed they are likewise allowable.

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### CONCLUSION

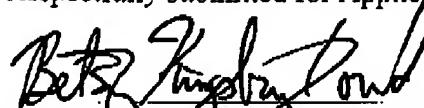
In light of the foregoing, Applicant respectfully submits that all rejections have been overcome and that the pending claims are in condition for allowance.

Applicants believe that no fees are necessitated by the present Amendment. However, in the event that any fees are due, the Commissioner is hereby authorized to charge any such fees to Deposit Account No. 06-0923.

If the Examiner believes that a telephone conversation with Applicant's attorney would expedite allowance of this application, the Examiner is cordially invited to telephone the undersigned attorney at the number provided below.

Date: September 5, 2008

Respectfully submitted for Applicant,



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